

Remarks

Applicant respectfully requests reconsideration of the present U.S. Patent application as amended herein. Claims 1, 6, 11, 16, 20 and 24 have been amended. No claims have been added or canceled. Thus, claims 1-28 are pending.

Amendments to the Specification

The typographical error identified in the Final Office Action has been corrected. Therefore, Applicants request that the objection to the specification be withdrawn.

Claim Rejections - 35 U.S.C. § 102(e)

Claims 1-3, 5-8, 10-13, 15, 16, 20, 22, 24-26 and 28 were rejected as being anticipated by International Patent Application WO 01/20864 by Tzannes (hereinafter "Tzannes"). For at least the reasons set forth below, Applicant submits that claims 1-3, 5-8, 10-13, 15, 16, 20, 22, 24-26 and 28 are not anticipated by Tzannes.

Claim 1 recites the following:

transmitting a first communication stream with a first proportion of voice signals to data signals when a telephone coupled to receive the communication stream is in a first state, wherein the voice signal comprises a voice channel that includes both audio signals and line signals corresponding to the voice channel; and

transmitting a second communication stream with a second proportion of voice signals to data signals when the telephone is in a second state, wherein the line signals corresponding to the voice channel and no audio signals from the telephone are transmitted and further wherein bandwidth of the voice channel used for the audio signals when the telephone is in the first state is used for data signals when the telephone is in the second state.

Thus, Applicant claims providing a voice channel in a communications stream when a telephone is in a first state and the communications stream carries line signals and no audio signals when the telephone is in a second state. See, for example, Figure 2b and related description. *Thus, a portion of the channel is used for line signals and a portion of the channel is used to transmit data when the telephone is in the second state.* Claim 6 is directed to an article and recites similar limitations.

The Final Office Action states:

Transmitting the communication stream with a second proportion of voice signals (Application Profile #1 id 14:1-24) to data signals when the telephone is in a second state, wherein the voice signals include line signals corresponding to the voice channel and o audio signals from the telephone and further wherein the bandwidth used for the audio signals when the telephone is in the first state is used for data signals when the telephone is in the second state (*AP #1 utilizes full connection capacity including the bandwidth used by voice telephone in AP #2*).

See page 2, last two lines to page 3, first four lines (emphasis added).

As discussed in the Final Office Action, *Tzannes* discloses multiple application profiles that can include one or more voice channels. See pages 14-15. Specifically, *Tzannes* discloses:

Application profile #1 (hereinafter, also AP #1) corresponds to an application set of only one variable data rate application, the [Internet Access Web Browsing] IAWB application with the data range of 1 Mb/s and 2 Mb/s. Thus, AP #1 specifies the *full connection capacity* (herein, 1.532 Mb/s) for transmitting signals associated with the IAWB application. All usable subchannels are allocated to the IAWB data stream with a IE-7 BER on each subchannel...

Application profile #2 (hereinafter, also AP #2) corresponds to an application set of only one fixed data rate application, a voice telephone (VT) application requiring 64 kb/s. Thus, AP #2 specifies 64 kb/s for transmitting signals associated with the VT application. A subset of the subchannels sufficient to achieve 64 kb/s is allocated to the VT data stream with a IE-3 BER on each subchannel.

See page 14, line 18 to page 15, line 6 (emphasis added).

Thus, *Tzannes* discloses either using full connection capacity for data traffic or reserving a full 64 kb/s subchannel for voice traffic. *Tzannes* clearly does not disclose or even suggest providing a voice channel in a communications stream when a telephone is in a first state and the communications stream carries line signals and data signals rather than audio signals when the telephone is in a second state. Therefore, *Tzannes* does not disclose the invention as claimed in claims 1 and 6.

Claims 2, 3 and 5 depend from claim 1. Claims 7, 8 and 10 depend from claim 6. Because dependent claims include the claims from which they depend, Applicants submit that claims 2, 3, 5, 7, 8 and 10 are not anticipated by *Tzannes* for at least the reasons set forth above.

Claim 11 recites the following:

A propagated signal that carries content to one or more electronic devices, the propagated signal comprising a communication stream with a first proportion of voice signals to data signals when a telephone coupled to receive the communication stream is in a first state, wherein the voice signal comprises a voice channel that carries both sampled audio and line signals and the communication stream having a second proportion of voice signals to data signals when the telephone is in a second state, wherein the voice signal includes line signals and no audio signals from the telephone and further wherein bandwidth used for the sampled audio when the telephone is in the first state is used for data signals when the telephone is in the second state.

Thus, Applicant claims a propagated signal in which a voice channel is carried when a telephone is in a first state and when line signals and no audio are carried when the telephone is in a second state.

As discussed above, *Tzannes* does not disclose providing a voice channel in a communications stream when a telephone is in a first state and the communications

stream carries line signals and no audio signals when the telephone is in a second state.

Therefore, *Tzannes* does not disclose the invention as claimed in claim 11.

Claims 12, 13 and 15 depend from claim 11. Because dependent claims include the limitations of the claims from which they depend, Applicant submits that claims 12, 13 and 15 are not anticipated by *Tzannes* for at least the reasons set forth above.

Claim 16 recites:

a framer coupled to the control circuit and to the telephone, the framer to allot a first bandwidth for telephone communication when the telephone is in the first state and to allot a second bandwidth for telephone communication when the telephone is in the second state, wherein the first bandwidth comprises a voice channel that includes a portion for audio signals and a portion for line signals and the second bandwidth comprises line signals and further wherein portion for audio signals is allotted for data transmission when the telephone is in the second state.

Thus, Applicant claims a framer that allots bandwidth that is used for audio signals when a telephone is in a first state and a portion of the bandwidth used for audio signals to be used for data transmission when the telephone is in a second state. Claims 20 and 24 recite similar limitations.

As discussed above, *Tzannes* does not disclose allotting bandwidth that is used for audio signals when a telephone is in a first state and for data transmission when the telephone is in a second state. Therefore, *Tzannes* does not anticipate the invention as claimed in claims 16, 20 and 24.

Claim 22 depends from claim 20. Claims 25, 26 and 28 depend from claim 24. Because dependent claims include the limitations of the claims from which they depend, Applicant submits that claims 22, 25, 26 and 28 are not anticipated by *Tzannes* for at least the reasons set forth above..

Claims 1-3, 5-8, 10-13, 15-18, 20-22, 24-26 and 27 were rejected as being anticipated by U.S. Patent No. 6,373,860 issued to O'Toole (hereinafter "*O'Toole*"). For at least the reasons set forth below, Applicants submit that claims 1-3, 5-8, 10-13, 15-18, 20-22, 24-26 and 27 are not anticipated by *O'Toole*.

As discussed above, claim 1 recites:

...wherein bandwidth of the voice channel used for the audio signals when the telephone is in the first state is used for data signals when the telephone is in the second state.

In contrast, *O'Toole* discloses "allocating low-level timeslots to either voice channels *or* to unchannelized data, depending on the number of voice calls currently being made." See Abstract (emphasis added). *O'Toole* further states that the "[f]ormats of the 8-KHz frames and superframes are fixed." Therefore, *O'Toole* discloses using a channel for *either* voice or data. *O'Toole* does not disclose the invention as claimed in claim 1, but teaches away from the invention as claimed in claim 1.

Claims 1-3, 5-8 and 10-13 depend from claim 1. Because dependent claims include the limitations of the claims from which they depend, Applicant submits that claims 1-3, 5-8 and 10-13 are not anticipated by *O'Toole* for at least the reasons set forth above.

As discussed above with respect to claim 16, Applicant claims a framer that allots bandwidth that is used for audio signals when a telephone is in a first state and a portion of the bandwidth used for audio signals to be used for data transmission when the telephone is in a second state. Claims 20 and 24 recite similar limitations. Because *O'Toole* discloses using a channel either for data communications or for voice

communications, *O'Toole* cannot disclose the invention as claimed in claims 16, 20 and 24.

Claims 17 and 18 depend from claim 16. Claims 21 and 22 depend from claim 20. Claims 25-27 depend from claim 24. Because dependent claims include the limitations of the claims from which they depend, Applicant submits that claims 17, 18, 21, 22 and 25-27 are not anticipated by *O'Toole* for at least the reasons set forth above.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 4, 9, 14, 19, 23 and 28 were rejected as being unpatentable over *O'Toole*. Each of claims 4, 9, 14, 19, 23 and 28 depends from an independent claim discussed above. Because dependent claims include the limitations of the claims from which they depend, Applicant submits that claims 4, 9, 14, 19, 23 and 28 are not rendered obvious by *O'Toole* for at least the reasons set forth above.

Claims 4, 9, 14, 17, 19, 21, 23, 27 and 28 were rejected as being unpatentable over *Tzannes*. Each of claims 4, 9, 14, 17, 19, 21, 23, 27 and 28 depends from an independent claim discussed above. Because dependent claims include the limitations of the claims from which they depend, Applicant submits that claims 4, 9, 14, 17, 19, 21, 23, 27 and 28 are not rendered obvious by *Tzannes* for at least the reasons set forth above.

Conclusion

For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 1-28 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Application No. 09/967,047
Amendment dated January 5, 2004
Response to Final Office Action of October 21, 2003

Atty. Docket No. 42390P11378
Examiner Levitan, Dmitry
TC/A.U. 2662

Please charge any shortages and credit any overcharges to our Deposit Account number
02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: JAN 13, 2004

Paul A. Mendonsa
Paul A. Mendonsa
Attorney for Applicant
Reg. No. 42,879

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(503) 684-6200

I hereby certify that this correspondence is being deposited with
the United States Postal Service as first class mail with sufficient
postage in an envelope addressed to Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313 on:

1/13/04
Date of Deposit
Annie Pearson
Name of Person Mailing Correspondence
Annie Pearson 1/13/04
Signature Date